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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re M.F., a Person Coming Under the
Juvenile Court Law.

H046086
(Santa Clara County
Super. Ct. No. 1-06-JD-17248)

SANTA CLARA COUNTY
DEPARTMENT OF FAMILY AND
CHILDREN'S SERVICES,

Plaintiff and Respondent,

v.

J.F.,

Defendant and Appellant.

J.F. (Mother) appeals from an order made after a hearing pursuant to Welfare and Institutions Code sections 366.3 and 388,¹ in which the juvenile court suspended visitation between her and her disabled daughter, M.F. Mother contends that the evidence was insufficient to support the court's finding that visits between her and M.F. were detrimental to the child. We will affirm the order.

Background

M.F. was born in September 2001 with special needs, which had not been met when she was taken into protective custody at the age of four. She has severe autism and severe intellectual deficits; her pre-frontal cortex operates at the level of a child of age

¹ All further statutory references are to the Welfare and Institutions Code.

one and a half; and she communicates nonverbally, through gestures, sounds, and occasionally a picture vocabulary device. M.F. was under legal guardianship beginning in May 2009, but since June 2012 she has been cared for in a specialized group foster home. She has been given medication to control her physical aggression and “self-injurious” behavior. However, changes in staff, in service providers, or in routines trigger an increase in the severity and frequency of her “target behaviors.”²

Mother suffers from schizophrenia, for which she was prescribed medication. On January 27, 2009 the court terminated visitation between Mother and M.F., based on the finding that it was detrimental to the child’s well-being. Despite Mother’s repeated requests for visitation thereafter, the social worker continued to be concerned that Mother was not taking her prescribed medication for her condition and that her “sporadic and paranoid behaviors” would persist during supervised visits. M.F.’s psychologist also remained concerned that M.F.’s condition was too “fragile” to tolerate visits from someone to whom she was not already attached.

Visitation was denied by the court throughout 2014 and 2015. Mother continued sending gifts and cards, however, and she continually objected to the medication administered to M.F. At each hearing the court denied visitation, finding that it would be detrimental to the child.³ The social worker reported that M.F. did not respond warmly to Mother, whom she regarded as a stranger.

By September of 2016 medication adjustments had decreased the severity and frequency of many of M.F.’s “target behaviors.” The social worker believed that because

² According to the social worker, those behaviors include banging her head, pacing, pica, claw-like grabbing, pinching and biting herself, physical aggression, inappropriately touching and kissing others, frequently opening drawers and cabinets and emptying them, attempting to eat her own feces, screaming, disrobing, and sleeping for less than three hours a day.

³ Visitation with M.F.’s father also was suspended on that day. Thereafter he did not appear in court for an assessment of the appropriateness of reinstated visitation, and by September 2016, his whereabouts were unknown.

M.F. had stabilized, she might be better able to tolerate a visit with her mother. The social worker therefore recommended one supervised visit for one hour during the ensuing reporting period. By this time Mother had not seen M.F. for several years.

In March of 2017, however, M.F.'s target behaviors were reported to have increased. The most severe of them appeared to correspond to distress during her menstrual periods. By August 2017 the significant target behaviors had increased for the third quarter in a row. By then Mother had visited with M.F. for an hour four times since March, with a visit scheduled for July 31. The social worker reported that Mother was "very appropriate at these visits. She brings food, playdough, picture books, picture albums with pictures of [M.F.], magazines, stickers, clothes and many toys and other gifts for [M.F.]." She was "very patient" with M.F. while trying to gain her attention, and she spoke to her "in a loving way." M.F. showed interest in what her mother had brought her, but she often ignored Mother's attempts to engage with her, being preoccupied with the other toys in the room. However, she sometimes ate what Mother had brought, and when encouraged to kiss her mother goodbye at the end of a visit, she did so.

M.F.'s psychologist reported that M.F.'s target behaviors increased for the first few days after these visits, but those reactions were not strong enough to warrant discontinuing them. The social worker recommended continuing with the monthly visits.

Mother visited M.F. each month between October 2017 and January 2018. With the help of a birth control pill her target behaviors had mostly stabilized, except when changes occurred in staff or routine. The social worker's February 2018 report was essentially identical to that of August 2017, including a recommendation for continued visitation with Mother. The social worker did note, however, that in recent visits M.F. had been running out of the visitation room and once climbed the stairwell.

On May 9, 2018, however, the Department of Family and Children's Services (the Department) filed a section 388 petition asking the court to terminate visitation between Mother and M.F. The social worker reported "a marked increase in [M.F.'s] target

behaviors such as hitting, biting, and . . . self-injurious behaviors . . . such as banging her head, biting her arms, digging at her rectum, smearing feces on her head, knocking and injuring her chin with her knees. These behaviors have been noted at her school and at her group home [and] occur around visitation.” The social worker believed that visits were not in M.F.’s best interests and benefited only Mother; M.F. showed no recognition of or attachment to Mother. During visits she often jumped up and down and screamed loudly. Although Mother tried her best to engage M.F. by talking to her sweetly, M.F. was unable to understand or respond appropriately, and Mother did not seem to understand her daughter’s developmental delays.

On one occasion in February 2018, Mother acted “aggressively and inappropriately” to the group home proprietor’s suggestion that due to M.F.’s “particularly bad” behaviors at school that morning, a visit not take place. When Mother and the social worker went over to the van where M.F. was, Mother grabbed M.F. by the arm, removed her from the van, and forced her into the visitation room for a visit. Mother remained very angry throughout the visit and attempted to intimidate the social worker.

M.F.’s psychologist, her psychiatrist, the group home proprietors, her court-appointed special advocate (CASA), and school staff agreed with the social worker that termination of visitation was warranted. Left open was the possibility of future visits after assessing M.F.’s behavior once visits were no longer occurring.

At the hearing on the petition on May 21, 2018, Mother was absent, but her counsel appeared. Mother felt “very strongly” that visits should continue, but she would agree to a “short suspension” to see if M.F.’s behavior stabilized. The court suspended visits until the next scheduled review on July 30, at which point a contested hearing could be set if needed.

Two months later the Department had not altered its position on visitation. In its addendum report for the July 30, 2018 hearing, M.F.’s behavioral challenges had not

abated, so Mother's counsel advocated revisiting the issue at the next hearing, as it appeared to her that visitation was not responsible for these issues. M.F.'s attorney pointed out that Mother was unlikely ever to be able to care for the child, so maintaining a stable placement and school setting—which were threatened by the escalation of M.F.'s target behaviors—had to be the primary goals.

The court, however, found sufficient evidence that the reintroduction of visitation had not been as beneficial as the parties had hoped, and that resuming visitation with Mother would be detrimental to M.F. The court therefore ordered the visits to remain suspended pending the next review hearing in January 2019. This timely appeal followed.

Discussion

Mother contends that the order maintaining the suspension of her visits with M.F. was an abuse of discretion and unsupported by substantial evidence. In her view, “[t]o find visits for [M.F.] detrimental and to eliminate them completely was arbitrary and capricious under the factual circumstances of this case.” We apply the substantial evidence standard to the court’s finding that the visits were detrimental to the child. (*In re A.J.* (2015) 239 Cal.App.4th 154, 160.) “Substantial evidence ‘means evidence that is “reasonable, credible and of solid value; it must actually be substantial proof of the essentials that the law requires in a particular case.” ’ ” “[T]he notion of detriment is at best a nebulous standard that depends on the context of the inquiry. . . . It cannot mean merely that the parent in question is less than ideal Rather, the risk of detriment must be *substantial*, such that [the proposed action] represents some danger to the child’s physical or emotional well-being.’ ” (*Ibid.*)

The court’s ultimate decision regarding visitation, however, was a matter for the juvenile court’s sound discretion, and its ruling will not be disturbed unless the court exceeded the bounds of reason. “ ‘The reviewing court must consider all the evidence, draw all reasonable inferences, and resolve all evidentiary conflicts, in a light most

favorable to the trial court's ruling. [Citation.] The precise test is whether any rational trier of fact could conclude that the trial court order advanced the best interests of the child. [Citation.]' ” (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.) “ ‘ “When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court. ” ’ ” (*In re Stephanie M.* (1994) 7 Cal.4th 318-319; see also *In re Brittany C.* (2011) 191 Cal.App.4th 1343, 1356 [“We will not disturb the order unless the trial court made an arbitrary, capricious, or patently absurd determination”].) This is also the standard to be applied in reviewing the ruling on the Department's section 388 petition. (*In re Jasmon O.* (1994) 8 Cal.4th 398, 415 (*Jasmon O.*)).

We find sufficient evidence to support the court's factual finding that continued visits would be detrimental to M.F. That increases in target behaviors could be attributed to other events, such as changes in environment or routine, does not mean that visits with mother did not also trigger such reactions. On May 1, 2018, the principal of M.F.'s school, where she attended special education classes, wrote that the incidence of self-injurious behaviors had spiked, corresponding to visits with Mother, whereas during the period without such contact, her behavior had improved. School staff were “very concerned regarding the impact [M.F.'s] visits with her mother appear to have upon her ability to access her education program, as well as her health.” In a follow-up letter on June 25, 2018, the principal wrote that only two incidents of severe and self-injurious behavior had occurred since the beginning of May; the decrease was concurrent with both a reduction in M.F.'s school day and the absence of visitation with Mother during that period.

In February 2018, Raymond J. Stovich, Ph.D., M.F.'s treating psychologist, noted that M.F.'s target behaviors increased “dramatically” for four to six days after visits with Mother. In particular, during the previous quarter there were “high levels of Inappropriate Touching, Self-Stimulation and Physical Aggression, especially clustering

the few days after each visitation with her mother.” M.F.’s advocate worker had also reported that after visits with Mother M.F. acted “very aggressively” with the worker. Additional medication was required to control M.F.’s behavior at the time of visits. In an update on May 26, 2018 by Dr. Stovich, he expressed the opinion that the visits have been “a disaster” for M.F. The “severe increases in the quantity and severity of [M.F.’s] (self-attacking) target behaviors . . . should be seen as [M.F.] communicating to us that she does not want to see her mother.” Consequently, forcing her to participate in visitation was “tantamount to child abuse and should be treated as such.”

Together with the social worker’s personal observations of M.F., these reports provided substantial evidence on which the juvenile court could rely in making its determination regarding visitation with Mother. It is not this court’s function to reweigh the evidence supporting the detriment finding or draw inferences contrary to the findings of the juvenile court. (*Jasmon O.*, *supra*, 8 Cal.4th at p. 423; *In re Michael G.* (2012) 203 Cal.App.4th 580, 589.) It is therefore unavailing for Mother to assert that “[t]he record supports continuing visits, not eliminating them.” In addition to the certainty expressed in the opinions of the principal and the psychologist, M.F.’s CASA was emphatic in asserting that “M.F.’s visits with her Mom need to stop.” The court could rely on these sources—as well as the personal observations of the social worker, the psychiatrist, and the group home proprietors in determining that it was in M.F.’s best interests to deny visitation with Mother pending further assessment at the next review hearing. No abuse of discretion is shown.

Disposition

The order is affirmed.

ELIA, Acting P. J.

WE CONCUR:

BAMATTRE-MANOUKIAN, J.

MIHARA, J.

In re M.F.; DFCS v. J.F.
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